

Stiff Penalties for Those Who Reuse Airbags

Jim Allen, BAR Legislative & Regulatory Analyst

Section 27317 of the Vehicle Code provides that it is a misdemeanor for any person to knowingly install, reinstall, distribute or sell any airbag that has been previously deployed. The penalty for such crime is a fine of not more than \$5,000, or a jail sentence of one year, or both. A violation of Section 27317 committed by a registrant of the Bureau of Automotive Repair (BAR) is considered a crime that is substantially related to the function of an automotive repair dealer. As a result, regulations were adopted in August 2002 that prohibit auto repair dealers from installing previously deployed air bags.

With the adoption of Section 3367 of Title 16 of the California Code of Regulations, BAR registrants are placed on notice that the installation or reinstallation, or sale and distribution of previously deployed airbags is prohibited. The adopted regulation specifically makes such installation, sale or distribution by a registrant a cause for administrative disciplinary action. Further, a criminal conviction

of Vehicle Code section 27317 is not required in order to pursue administrative discipline.

It is intended that, by eliminating a significant market for deployed airbags, the rise in inappropriate installations may be reduced or eliminated, thereby protecting the public health safety and welfare.

BAR has discovered that there is an increasing incidence of the reinstallation of previously deployed airbags by private owner rebuilders, automotive repair shops, auto body shops, and used vehicle dealers. Once an airbag has been deployed, however, it cannot be reinstalled to function properly. Drivers and passengers of vehicles with such defective inflatable restraint systems are not protected in the event of an accident.

It has been reported that some technicians encase the previously deployed airbag in a seemingly appropriate cover and reinstall it in a customer's vehicle. The cost to the shop may be minimal; perhaps as little as \$50, but the unsuspecting customer may be billed for the full cost of a new system. An airbag can cost as much as \$2,500 to replace, making it the single most expensive item to replace in a minor front-end collision. Cost is really not the primary issue though; safety is. Of course, no one is going to know that there is a problem until there is a crash and the airbag fails to deploy and do its job.

BAR Suspends Use of Notices of Violation (NOV)

After careful consideration, Department of Consumer Affairs Director Kathleen Hamilton and BAR Chief Patrick Dorais have announced that BAR will no longer issue Notices of Violation (NOV) to its licensees.

BAR had used the NOV's for more than 30 years as a courtesy notice to licensees, as part of its proactive enforcement effort to inform and to seek voluntary compliance with the relevant statutes and regulations of the Automotive Repair Act. NOV's were typically issued when less serious violations were confirmed in the course of investigating consumer complaints or when performing licensed station inspections.

There was never a penalty attached to an NOV; they had always been issued as a way of alerting BAR licensees of a need to take corrective action. Moreover, NOV's were issued when BAR investigators determined that formal disciplinary action was not warranted.

On December 5, 2002, BAR suspended the disclosure of complaints with NOV's on its Web site. A temporary suspension of issuing NOV's took effect on January 15, 2003.

The review that led to the permanent end of NOV's came as part of the Department of Consumer Affairs' ongoing review of its various programs' complaint disclosure standards.

INSIDE

Air Quality and Shop Safety Information is available on the Web	2
Disciplinary Actions	3

NOV (continued)

It's also as the result of the unintended use of NOV information by law firms to secure settlements in a rash of Business & Professions Code 17200 filings.

Although BAR has stopped issuing NOVs, it will continue to advise licensees of less serious violations that are noted when investigating consumer complaints and performing station inspections. Likewise, BAR will continue to conduct Office Conferences with licensees when a pattern of these less serious violations develops. The Office Conference is used to alert the licensee of a developing pattern with the hope of avoiding the need for more formal disciplinary action. These are the same progressive enforcement policies that BAR has used for more than 30 years to address lower grade violations.

In addition, the Department of Consumer Affairs and BAR are looking at new permanent methods to informally notify

licensees of less serious violations of the Automotive Repair Act. Soon, BAR will also develop a proposed regulations package to initiate cite and fine authority for specified, non-fraud violations of the Act. This process may be placed between the informal Office Conference and a more formal disciplinary action seeking revocation or suspension of the license if the act(s) continue. BAR is looking for input on these items from all interested parties. Please forward your input to:

Jim Allen
Legislative & Regulatory Analyst
Bureau of Automotive Repair
10240 Systems Parkway
Sacramento, CA, 95827

Over the next few months, BAR expects to hold workshops in order to get input on this issue, after which the formal rule making process will begin.

Air Quality and Shop Safety Information is available on the Web

About 4.5 million aerosol spray cans and spray bottles of automotive cleaning and degreasing products are sold in California each year. These products, which include brake cleaners, carburetor cleansers, engine degreasers, and general-purpose degreasers, are used at automotive maintenance and repair shops and at home by do-it-yourself technicians. Many of these products contain toxic air contaminants and other toxic substances that may cause harmful health effects to workers and nearby residents.

Several government agencies are concerned about public exposure to toxic substances and air contaminants and have adopted regulations for the manufacture and use of many of these products. For example, The Air Resources Board (ARB) adopted a regulation that prohibited after June 2001, the manufacture, sale or use of automotive cleaning and degreasing products that contain Perchloroethylene (Perc), Methylene chloride (MeCI), and trichloroethylene (TCE). Exposure to these compounds may result in both cancer and non-cancer health effects to nearby residents and workers. The California Department of Health Services, Occupational Health Branch, frequently publishes Health

Hazard Advisory notices. An advisory was issued in June of 2001, on the use of n-Hexane solvent in auto repair shops and its potentially dangerous effects from long-term overexposure. Long-term overexposure to n-hexane can damage the nerves in the feet, legs, hands, and arms. The California Environmental Protection Agency (Cal/EPA) and the U.S. Environmental Protection Agency publish several pamphlets on "Best Environmental Practices for Auto Repair" and "Best Environmental Practices for Fleet Maintenance." There are also pamphlets to help with "Switching to Water-Based Cleaners for Automotive Brake Cleaning" and "Switching to Water-Based Cleaners for Repair and Maintenance Parts Cleaning." These toolkits can be accessed at the EPA web site address listed below.

The Web provides a wide array of information that may assist auto repair shop owners in providing a safer workplace and at the same time protecting the environment. Below is a list of web sites that provide more detailed information about the safety and use of automotive cleaning and degreasing agents and other information to improve the health and safety conditions of the workplace.

www.epa.gov/region09/p2/autofleet

www.dhs.ca.gov/ohb

www.dir.ca.gov/DOSH/districtoffices.htm

www.arb.ca.gov/toxics/toxics.htm

www/aqmd.gov/tao/cas/prolist.html

DISCIPLINARY ACTIONS

Auto Medic, Fairfield

Willie L. Thomas, Owner

Order: ARD registration revoked.
(4/30/02).

Best of The Bay Collision Repair, San Mateo

Vincent Albert Zito, Owner

Order: ARD registration suspended ninety (90) days, eighty (80) days stayed, actual suspension ten (10) days, and placed on probation two (2) years on the following terms and conditions: Comply with all laws and regulations. Report to BAR on prescribed schedule, report any financial interest in any other repair facility, and reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$4,461.53.
(6/10/02)

Color King Paint & Body, Sacramento

Shane G. Britt, Owner

Order: ARD registration permanently invalidated. Respondent shall reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$37,653.52.
(4/19/02)

Continental Body Shop, Oakland

Monte C. Walker, Owner

Order: ARD registration revoked.
(4/4/02)

Eastern Auto Sales & Service, Oakland

Minh Quoc Tu and Nga My Tran, Partners

Order: ARD registration permanently invalidated, stayed, suspended sixty (60) days, and placed on probation for four (4) years on the following terms and conditions: Comply with all laws and regulations. Report to BAR on prescribed schedule. Report any financial interest in any other repair facility, and reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$11,000.00.
(6/10/02)

Japanese Auto Care, Sacramento

Sheyan Rahbarian, Owner

Order: ARD registration permanently invalidated. Smog Check Station License invalidated and revoked. Gold

Shield Guaranteed Repair Certificate permanently withdrawn.
(4/8/02)

Reflections Autobody, Milpitas

Charley Marshall Breshears, Owner

Order: ARD registration revoked.
(4/19/02)

Renteria Auto Body and Paint, Fresno

Fernando A. Renteria, Owner

Order: ARD registration permanently withdrawn.
(4/8/02)

Service Center Just Brakes, a.k.a. Chevron Fast Lube Plus, Bakersfield

Kurt Nelson Cason, Owner

Order: ARD registration permanently invalidated.
(4/10/02)

Stoops Auto Body, Sacramento

Paulette Ann Reissmann, Owner

Order: ARD registration revoked, stayed, suspended for three (3) days, and placed on probation for three (3) years on the following terms and conditions: Comply with all laws and regulations. Report to BAR on prescribed schedule. Report any financial interest in any other repair facility, and reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$20,000.00. In addition, respondent shall pay restitution in the amount of \$2,050.00 and pay the California State Automobile Association \$894.00.
(6/3/02)

Ultra Car Care, Bakersfield

John Ernest Castro, Jr., Owner

Order: Application for ARD registration denied.
(6/20/02)

Vallejo Transmission, Vallejo

Robert E. Garcia, Owner

Order: ARD registration revoked.
(6/10/02)

Repair Reporter

Vehicle Rescue Service, Sacramento

Bennie Fitzgerald, Owner

Order: ARD registration revoked.

(4/30/02)

SOUTHERN CALIFORNIA

A & D Auto Body, Pomona

Rupert G. Allen and Enedino Alonso, Partners

Order: ARD registration revoked, stayed, suspended sixty (60) days, and placed on probation for five (5) years on the following terms and conditions: Comply with all laws and regulations, report to BAR on prescribed schedule, report any financial interest in any other repair facility, and reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$13,000.00.

(6/3/02)

Affordable A1 Automotive, Los Angeles

Hoda Wassef Afra, Owner

Order: ARD registration revoked.

(4/30/02).

All Seasons Tire & Auto Center, Inc, Anaheim

Ronald Grosman, Owner

Order: ARD registration revoked, stayed, suspended ten (10) days, and placed on probation for three (3) years on the following terms and conditions: Comply with all laws and regulations. Report to BAR on prescribed schedule, report any financial interest in any other repair facility, and reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$5,000.00.

(6/3/02)

All Valley Transmission, North Hollywood

Kevin V. Harvey, Owner

Order: ARD registration revoked.

(6/20/02)

Anaheim Auto Service, Wilmington

Suk Hyun Lee, Owner & Technician

Order: ARD registration permanently invalidated. Smog Check Station License, Lamp Station License, Brake Station License, Brake Adjuster License, and Lamp Adjuster Licenses revoked.

(4/30/02).

Auto Body 2000, Visalia

Antoinette Michelle Martinez, Owner

Order: ARD registration denied.

(4/25/02)

Auto Body Collision Center, Arleta

Maksim Max Krumer, Owner

Order: ARD registration revoked. BAR is entitled to recover costs in the amount of \$10,027.75.

(6/20/02)

Auto Precision, Chatsworth

Marko Dragicivic, Owner

Order: ARD registrations and Smog Check Station Licenses issued to Mark Dragicivic are revoked and permanently invalidated.

(4/15/02)

Business Automotive & Body Shop, Los Angeles

Alvin Allen, Owner

Order: ARD registration permanently invalidated.

(4/10/02)

Cal Green Auto Body, Burbank

Georgily Yakubyan and Grigorian Armen, Partners

Order: ARD registration permanently invalidated.

(4/25/02)

Caliber Holding Corp. dba

Caliber Collision Center, Costa Mesa

Matthew Ohrnstein, President

Order: ARD registration revoked, stayed, suspended five days, and placed on probation for three years on the following terms and conditions: Comply with all laws and regulations. Report to BAR on set schedule. Report any financial interest in any other repair facility and reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$8,000.00. The disciplinary order shall carry over and be applicable in full to any different BAR license or registration issued for a facility at the address of 1622 Pomona Avenue, Costa Mesa, California.

(4/29/02)

Cerritos Auto Repair Center, Artesia

William Young Chang, Owner

Order: ARD registration and Smog Station License revoked, stayed, suspended thirty (30) days, and placed on probation for three (3) years on the following terms and conditions: Comply with all laws and regulations. Report to BAR on prescribed schedule. Report any financial interest in any other repair facility, and reimburse BAR for the

costs of investigating and prosecuting the case in the amount of \$13,734.41. In addition, must pay restitution to State Farm in the amount of \$807.25, pay restitution to 21st Century Insurance Company in the amount of \$1,045.96, and pay restitution to Automobile Club of Southern California in the amount of \$462.32.

(6/3/02)

Cypress Transmissions, Cypress

Renee A. Morales, Owner

Order: ARD registration revoked.

(4/15/02)

Guaranteed Transmission & Auto Repair, Los Angeles

Suzanne S. Choe, Owner

Order: ARD registration revoked.

(4/10/02)

Hollywood Grand Prix Auto Body, Los Angeles

Yun Sang Kang, Owner

Order: ARD registration revoked. Respondent shall reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$9,754.67.

(6/24/02)

JC Transmission, Carson

Won Ok Koh, Owner

Order: ARD registration revoked.

(4/30/02)

MD Auto Repair & Tires, Spring Valley

Mahmoud Dibas, Owner

Order: ARD registration revoked, stayed, suspended three days, and placed on probation for three years on the following terms and conditions: Comply with all laws and regulations. Report to BAR on prescribed schedule. Report any financial interest in any other repair facility, and reimburse BAR for the costs of investigating and prosecuting the case in the amount of \$11,774.00. In addition, respondent agrees to withdraw his application for a Brake and Lamp License as of the effective date of the decision.

(6/3/02)

Puma Auto Repair, Los Angeles

Alberto Garcia, Owner

Order: ARD registration revoked. Respondent shall reimburse BAR for the costs of investigating and prosecuting this case in the amount of \$15,835.73.

(4/25/02)

Shamsher Auto, Inc., dba

Purrfect Auto Service, #41, Glendale

Order: ARD registration revoked. Respondent shall reimburse BAR for the cost of investigating and prosecuting this case in the amount of \$15,835.73.

(4/25/02)

Purrfect Auto Service #85, Torrance

Shafiq Mohamad, Owner

Order: ARD registration permanently invalidated. Smog Check Station License revoked.

(4/30/02)

Sherman Oak Exclusive Auto Sales And Repairs, Sherman Oaks

Shohreh Javadi aka Terry (Terri) Javadi, aka Shohreh Pu Darvishian, Owner

Order: Application for ARD registration denied.

(6/10/02)

USA General Auto Repair

USA Clutch & Brake Center, Reseda

Huynh Van Tran, Owner

Order: ARD registration revoked.

(4/30/02)

Warren Auto Detail, Van Nuys

Al Warren, a.k.a. Alfred Warren, Owner

Order: Application for ARD registration denied.

(6/10/02)

Wholesale Transmission Auto Wreck, Los Angeles

Won K. Lee, Owner

Order: ARD registration permanently invalidated. Respondent shall reimburse BAR for the costs of investigating and prosecuting this case in the amount of \$23,357.52.

(4/4/02)

Z&M Complete Auto Repair, Los Angeles

Mike Nadjarian, a.k.a.

Mkrtich Mike Nadjarian, Owner

Order: ARD registration revoked.

(4/10/02)

WINTER/SPRING 2003

Gray Davis
*Governor,
State of California*

Kathleen Hamilton
*Director, California
Dept. of Consumer Affairs*

Patrick Dorais
*Chief, Bureau
of Automotive Repair*

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Lamp and Brake Station Handbook Now Available

The new Lamp & Brake Station Handbook is now available. BAR will be mailing a copy of the handbook to all licensed lamp and brake stations during the next few weeks. Additional copies of the Handbook can be ordered by printing and completing the request form, which is available on the BAR web site or requested by mail and sending \$4 per copy to the BAR office at; 10240 Systems Parkway, Sacramento, CA 95827.

BAR FIELD OFFICE PHONE NUMBERS

Bakersfield	(661) 833-6304
Conoga Park	(818) 596-4400
Culver City	(310) 410-0024
Fresno	(559) 445-5015
Oceanside	(760) 439-0942
Placentia	(714) 961-7940
Richmond	(510) 243-9410
Riverside	(909) 782-4250
Sacramento	(916) 255-4200
San Jose	(408) 277-1860
South El Monte	(626) 575-6934

OTHER HELPFUL NUMBERS

DCA Consumer Information Center	(800) 952-5210
BAR Licensing	(916) 255-3145
ET Help Desk	(866) 860-8509
MCI	(800) 731-SMOG
(Then press 5 for technical support)	
Referee Scheduling Center	(800) 622-7733
Parts Locator	(800) 826-3566
Auto Body Inspection Pilot	(866) 881-1332

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